

**DISTRICT OF COLUMBIA**  
**DOH Office of Adjudication and Hearings**  
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DISTRICT OF COLUMBIA  
DEPARTMENT OF HEALTH  
Petitioner,

v.

CHESAPEAKE CHARTER, INC.  
Respondent

Case No.: I-00-10036  
I-00-10039

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**FINAL ORDER**

**I. Introduction**

By Notices of Infraction (00-10036, 00-10039) served on June 19, 2000, the government charged Respondent Chesapeake Charter, Inc. with two violations of 20 DCMR 900.1, which prohibits, with certain exceptions, motor vehicles from idling their engines for more than three minutes while parked, stopped or standing. The Notices of Infraction allege that two buses operated by Respondent violated §900.1 in the unit block of I Street, S.E. on June 12, 2000 and seeks fines of \$500.00 for each infraction for a total fine amount of \$1,000.00.

On July 5, 2000, Respondent filed a timely plea of Admit with Explanation to each Notice of Infraction, along with a request for suspension or reduction of the fine.<sup>1</sup>

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<sup>1</sup> Respondent filed one explanation applicable to both Notices of Infraction that are before this administrative court. On July 19, 2000, the Clerk's office inadvertently issued a default order in Case No. I-00-10039. That order will be vacated, as Respondent has filed a timely plea in both cases.

On July 10, 2000, this administrative court issued an order permitting the Government to reply to Respondent's plea and request. The Government filed its reply on July 20, 2000.

## **II. Summary of the Evidence**

Respondent does not deny that its buses idled their engines for more than three minutes as charged in the Notices of Infraction. Respondent states that the drivers had returned to the buses after a lunch break and that they were idling the engines in order to build up sufficient air pressure to operate the vehicles' air brakes. Respondent asserts that 49 CFR 393.52 "states that a driver should idle an engine for up to 15 to 20 minutes to develop sufficient pressure to operate the brakes to federal standards," and claims that it is unfair to impose a fine for adhering to federal law.

The Government responds that 49 CFR 393.52 does not state that engines must be idled for 15 to 20 minutes.

## **III. Findings of Fact**

1. By its plea of Admit with Explanation to both Notices of Infraction, Respondent has admitted that it committed two violations of 20 DCMR 900.1 on June 12, 2000.
2. On June 12, 2000, two buses owned and operated by Respondent idled their engines while parked for more than three minutes in the unit block of I Street, S.E.

#### IV. Conclusions of Law

1. Respondent committed two violations of 20 DCMR 900.1 on June 12, 2000.
2. Respondent's claim that 49 CFR 393.52 requires a bus driver to idle the engine for 15 to 20 minutes is incorrect. Nothing in the cited regulation specifies a minimum idling time. Moreover, a recent federal district court decision reports that the United States Department of Transportation found that an over-the-road bus must "idle for one to three minutes to allow it to build up sufficient air pressure to operate." *American Bus Ass'n, Inc. v. Slater*, 1999 U.S. Dist. LEXIS 20936 at \*91 (D.D.C. September 10, 1999). Thus, Respondent has presented no basis for its claim that federal regulations required its buses to idle their engines for longer than the period prescribed by 20 DCMR 900.1. Accordingly, there will be no suspension or reduction of the total fine of \$1,000.00 sought in this case.

Therefore, upon Respondent's answer and plea, its application for suspension of the fine, the Government's reply and the entire record in this case, it is hereby, this \_\_\_\_\_ day of \_\_\_\_\_, 2000:

**ORDERED**, that the default order issued in Case No. I-00-10039 on July 19, 2000 is **VACATED**; and it is further

**ORDERED**, that Respondent shall cause to be remitted a single payment totaling **ONE THOUSAND DOLLARS (\$1,000.00)** in accordance with the attached instructions within twenty (20) calendar days of the date of mailing of this Order (fifteen (15) calendar days plus five (5) days for service by mail pursuant to D.C. Code § 6-2715). A failure to comply with the attached payment instructions and to remit a payment within the time specified will authorize the imposition of additional sanctions, including the suspension of Respondent's license or permit pursuant to D.C. Code § 6-2713(f).

/s/      **7/28/00**

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John P. Dean  
Administrative Judge